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BEFORE THE
ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS)	
DEPARTMENT OF)	
TRANSPORTATION)	
)	
Petitioner,)	
vs.)	No. T13-0114
)	
ILLINOIS CENTRAL)	
RAILROAD COMPANY and)	
VILLAGE OF BOURBONNAIS,)	
)	
)	
Respondents.)	

Petition for an Order to improve public safety by widening the highway-rail at-grade crossing, constructing a multi-use path and pedestrian crossing and replacing warning signal devices at Illinois Central Railroad's two railroad tracks at the 6000N Road crossing near DOT #228 931M, railroad milepost 49.75.

Administrative Law Judge LATRICE KIRKLAND-MONTAGUE

REPORT OF PROCEEDINGS held in the above-entitled cause, before the Administrative Law Judge LATRICE KIRKLAND-MONTAGUE, on the 29th day of January, 2014, held at the Illinois Commerce Commission, 160 North LaSalle Street, Suite N801, at the hour of approximately 1:30 o'clock p.m.

Reported by: Camille Trok, RPR
License No. 84.000960

1 A P P E A R A N C E S:

2

ADMINISTRATIVE LAW JUDGE:

3 MS. LATRICE KIRKLAND-MONTAQUE;

ILLINOIS DEPARTMENT OF TRANSPORTATION, by

4 MS. JENNIFER R. KUNTZ

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5 Springfield, Illinois 62764

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6 jennifer.kuntz@illinois.gov

 Appeared on behalf of the Petitioner;

7

ILLINOIS CENTRAL RAILROAD COMPANY, by

8 MR. THOMAS J. HEALEY

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(708) 332-4381

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 Appeared on behalf of the Petitioner;

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LAW OFFICES OF PATRICK T. DUNN, P.C., by

12 MR. PATRICK T. DUNN

200 East Court Street, Suite 700

13 Kankakee, Illinois 60901

(815) 933-6637

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 Appeared on behalf of the

15 Village of Bourbonnais.

16

Staff:

17 Illinois Commerce Commission, by

MR. DANIEL POWERS

18 527 East Capital Avenue

Springfield, Illinois 62710

19 (847) 516-0733

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1 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

2 I guess we'll get going. All right.

3 By the power vested in me by the State of
4 Illinois and the Illinois Commerce Commission, I now
5 call Docket No. T13-0114.

6 This is in the matter of the State of
7 Illinois, Department of Transportation as Petitioner
8 vs. The Illinois Central Railroad Company and the
9 Village of Bourbonnais as Respondents.

10 And we are here on a petition for an order
11 to improve public safety by widening the
12 highway-rail at-grade crossing, constructing a
13 multi-use path and pedestrian crossing and replacing
14 warning signal devices at the Illinois Central
15 Railroad's two railroad tracks at the 6000N Road
16 crossing near Bourbonnais, Kankakee County,
17 Illinois.

18 May I have appearances, please. Let's
19 start with IDOT.

20 MS. KUNTZ: Jennifer Kuntz, K-u-n-t-z.
21 2300 South Dirksen Parkway Springfield, Illinois
22 62764. (217) 782-0665.

23 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

24 Thank you. And Illinois Central?

25 MR. HEALEY: Thomas Healey, H-e-a-l-e-y, on

1 behalf of Illinois Central Railroad Company. I'm
2 in-house Counsel with them. My office is at
3 17641 South Ashland Avenue, that's in Homewood, one
4 word, Illinois 60430. Phone number (708) 332-4381.

5 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

6 Thank you. And the Village of Bourbonnais.

7 MR. DUNN: Good afternoon, Your Honor. My
8 name is Patrick Dunn. I'm representing the Village
9 of Bourbonnais. I'm retained Counsel by them. My
10 office -- I'm from the Law Offices of Patrick T.
11 Dunn. My office is at 200 East Court Street
12 Kankakee, Illinois, Suite 701, and my phone number
13 is (815) 933-6637.

14 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

15 Thank you. Staff.

16 MR. POWERS: Daniel Powers, Illinois
17 Commerce Commission, 527 East Capital Avenue
18 Springfield, Illinois 62701, and the phone is
19 (847) 516-0733.

20 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

21 Thank you. Okay. Ms. Kuntz, IDOT is presenting
22 this petition, so I will give you the floor. Do you
23 have witnesses?

24 MS. KUNTZ: Yes, Your Honor, I have one
25 witness, Amy Reed.

1 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

2 Okay. And are you going to have witnesses who will
3 testify?

4 MR. HEALEY: Mr. Jones will be testifying
5 today.

6 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

7 Why don't you both stand up and raise your right
8 hands.

9 (Witnesses sworn.)

10 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

11 Okay. Be seated, and I'll give Ms. Kuntz the floor.

12 MS. KUNTZ: Thank you.

13 MR. HEALEY: Actually, if I could, we had
14 had a brief exchange before you came in regarding
15 some of the exhibits. They list the railroad as
16 being Canadian National Railroad Company, that's our
17 parent company. For purposes of the hearing today
18 if we all understand that that's actually Illinois
19 Central Railroad Company, that's who owns the
20 tracks, that's who operates the trains, that's who
21 employs Mr. Jones and myself.

22 So we won't jump up every time it says
23 Canadian National on it if we all understand that
24 it's actually Illinois Central.

25 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

1 All right. Thank you.

2 MS. KUNTZ: Thank you.

3 AMY REED,

4 called as a witness herein, having been first duly
5 sworn, was examined upon oral interrogatories and
6 testified as follows:

7 EXAMINATION

8 BY MS. KUNTZ:

9 Q. Could you state your name for the court
10 reporter, please.

11 A. Amy Reed. A-m-y, R-e-e-d.

12 Q. Where are you employed?

13 A. Illinois Department of Transportation.

14 Q. How long have you worked there?

15 A. 29 years.

16 Q. What is your current title or position?

17 A. Project support engineer.

18 Q. And how long have you been in that
19 position?

20 A. 22 years.

21 Q. What is your school background or
22 professional background?

23 A. Bachelor's degree in civil engineering and
24 a registered professional engineer in Illinois.

25 Q. Okay. Are you familiar with a large IDOT

1 project that was created to improve safety for the
2 new interchange between I-57 and 6000N Road near
3 Bourbonnais in Kankakee County?

4 A. Yes.

5 Q. And are you familiar with a smaller portion
6 of that project that impacts an at-grade crossing
7 No. 288931M?

8 A. Yes.

9 Q. I want you to look at Exhibit A. Do you
10 recognize it?

11 A. Yes.

12 Q. What is that?

13 A. That is the cover sheet to our roadway
14 plans.

15 Q. And generally what kind of information is
16 located on that?

17 A. It would have our State Route section
18 number, type of work that we're performing, location
19 and description of index pages that go with the
20 roadway set of plans.

21 Q. And this is for the larger project?

22 A. Correct.

23 Q. And a smaller portion involving the
24 railroad crossing is also involved in this?

25 A. Yes.

1 Q. Just to get a better idea of the location
2 that we're talking about, what direction does I-57
3 run?
4 A. North and south.
5 Q. And in the area of Bourbonnais are there
6 railroad tracks that run parallel to I-57?
7 A. Yes. They run north and south east of
8 I-57.
9 Q. And who owns those railroad tracks?
10 A. The Illinois Central Railroad.
11 Q. And how many railroad tracks are there?
12 A. Two tracks.
13 Q. Are they both main, side tracks, can you
14 explain them?
15 A. The west track is the main track, and the
16 east track is the siding track.
17 Q. And during this project, has IDOT acquired
18 any permanent easements to work on the railroad
19 property?
20 A. Yes.
21 Q. Okay.
22 A. And it is acquired.
23 Q. Where is Illinois 50 located?
24 A. Illinois 50 is east of I-57, east of the
25 Illinois Central tracks.

1 Q. So it goes I-57, railroad track, railroad
2 track, Illinois 50?
3 A. Correct.
4 Q. Moving west to east.
5 How close is Illinois 50 to the railroad
6 tracks?
7 A. Currently it is 125 feet.
8 Q. Who has jurisdiction over Illinois 50?
9 A. The State of Illinois.
10 Q. And where is 6000N Road located? Do you
11 know what -- if I can clarify, which direction does
12 6000N Road run?
13 A. 6000N Road runs east and west.
14 Q. Okay. Does that intersect with the
15 railroad tracks?
16 A. Yes.
17 Q. And does it also intersect with I-57?
18 A. Yes.
19 Q. And Illinois 50?
20 A. Yes.
21 Q. Okay. Who has jurisdiction over
22 6000N Road?
23 A. The Village of Bourbonnais.
24 Q. To your knowledge, does 6000N Road have a
25 different name?

1 A. Bourbonnais Parkway.

2 Q. Okay. But for today's hearing we'll just
3 refer to it as 6000N Road.

4 A. Yes.

5 Q. Okay. I believe you said the Village has
6 jurisdiction over 6000N Road; is that right?

7 A. Yes.

8 Q. Does the jurisdiction ever transfer during
9 the course of this project?

10 A. No. The Village has jurisdiction
11 currently, during construction and after
12 construction.

13 Q. Could you describe the existing 6000N Road?
14 For instance, how many lanes, is it marked, that
15 kind of information.

16 A. Currently 6000N Road is a two-lane
17 bituminous-topped road. No markings, no pavement
18 markings, and there are, I believe, aggregate
19 shoulders.

20 Q. Do you know what the current AADT is for
21 6000N Road?

22 A. That's average daily traffic. It's 2100.

23 Q. And do you know what percentage is truck
24 traffic?

25 A. 18 percent trucks.

1 Q. Okay. Can you describe generally the
2 existing at-grade crossing? Do you know what
3 milepost that's at?

4 A. Yes, I do. The current crossing is
5 Milepost 49.75.

6 Q. And do you know how many average trains?

7 A. Our last correspondence with the railroad
8 there were 14 freights, two intermodals and six
9 Amtrak per day, varying at speeds from 25 to 79.

10 Q. Do you know if there's any minimum speeds
11 or maximum speeds that --

12 A. I believe 25 is the minimum.

13 Q. And do you know what the maximum speed is?

14 A. 79.

15 Q. Do you know what kind of -- I'm sorry, do
16 you know what the existing warning devices are at
17 that crossing?

18 A. There are currently flashing light signals
19 with gates.

20 Q. Are you aware of any accidents at this
21 crossing?

22 A. Yes. In March of -- at this crossing? I'm
23 sorry, at this crossing there was an accident last
24 year. It occurred just east of the crossing at the
25 intersection of 6000N Road and Illinois 50. It

1 appeared the driver didn't -- they were eastbound
2 and failed to stop at the intersection, and there
3 was one fatality.

4 Q. Did the accident involve a train?

5 A. No.

6 Q. Okay. In the immediate area of that
7 intersection are you aware of any other accidents?

8 A. About mile and a half south at
9 McKnight Road in 1999 the Bourbonnais train accident
10 occurred with the Amtrak where there were several
11 fatalities.

12 Q. Do you know what the cause of the crash
13 was?

14 A. Truck driver went through the gates.

15 Q. If we could talk about the project a little
16 bit.

17 Can you just at this point generally
18 describe what the proposed 6000N Road will be? How
19 many lanes of traffic are there?

20 A. Right. I wanted to start by saying we are
21 constructing an interchange at I-57 and 6000N Road,
22 so that was the beginning of this project to provide
23 this interchange off of I-57 where there currently
24 is not one. So 6000N Road will be widened to seven
25 lanes and a raised median, a multi-use path,

1 ten-foot multi-use path on the north side, and a
2 five-foot sidewalk on the south side.

3 Eastbound will be five lanes; two right
4 turn lanes -- or I'm sorry, one right turn lane, two
5 through lanes and two left turn lanes.

6 Westbound at the tracks will be two through
7 lanes, making the seven lanes.

8 Illinois 50 will be relocated approximately
9 85 feet east of the current intersection. The
10 elevation of the roadway east and west of the tracks
11 will be raised so that the grade crossing will be
12 safer, having -- currently there's grade changes as
13 you go up to the tracks and come back over. So it
14 will all be an even elevation through there.

15 Q. What kind of median will be put in?

16 A. We'll have a raised median with a curb. On
17 the west side it will be a barrier curb so cars
18 can't go through that. On the east side of the
19 tracks it will be a mountable curb so a car has a
20 place to escape. And that design is according to
21 our Section -- Chapter 7 of the design manual, how
22 to design a curb at a railroad crossing.

23 Q. I'd like to talk about some of the
24 specifics. If you go ahead and look at your
25 exhibits, let's look at Exhibit B.

1 Do you recognize what Exhibit B is?

2 A. Yes.

3 Q. Can you describe what it is?

4 A. That is the proposed plan for work at the
5 railroad crossing for the railroad, what we proposed
6 the railroad reconstruction work to be, including
7 traffic signals.

8 Q. Can you describe the traffic signals?

9 A. Currently Illinois 50 is not signalized
10 with traffic signals. The proposed improvement will
11 have traffic signals at the intersection. We will
12 also place a pre-signal or a signal on the west side
13 of the tracks, and -- any questions with that? I'm
14 sorry.

15 Q. No, that's okay. I was asking if you would
16 describe the traffic signals.

17 Will the traffic signals be interconnected
18 with the railroad signals?

19 A. Yes.

20 Q. Could you describe and explain the
21 interconnection?

22 A. The interconnection is a cable that is
23 going to be installed from the traffic signals, and
24 it will also have a communication between the train
25 when the train comes, and the traffic signals, so

1 when the train comes it will send a signal that will
2 clear out the traffic off of the tracks to make that
3 intersection safe so there will be no traffic
4 vehicles sitting on the tracks when the train is
5 coming.

6 Q. What kind of traffic signal timing are we
7 talking about?

8 A. 37 seconds.

9 Q. Okay. If you want to look at Exhibit C, do
10 you recognize that?

11 A. Yes. That's a schematic of our
12 intersection detail. It shows the traffic lanes.
13 The crosshatching would be the pavement marking
14 diagonals that we're putting on. And so it would be
15 the Illinois 50 and 6000N Road intersection detail.

16 Q. And you mentioned there's going to be
17 multiple lanes.

18 How wide are the lanes going to be?

19 A. Twelve-foot lanes.

20 Q. And I believe you mentioned the multi-use
21 path. How wide will that be?

22 A. The multi-use path on the north side is a
23 ten-foot wide sidewalk.

24 Q. And on the south side there was a
25 pedestrian sidewalk. How wide is that going to be?

1 A. Five-foot wide.

2 Q. Are those measurements detailed in the

3 exhibit, do you know?

4 A. No.

5 Q. I see a lane has twelve feet on the side.

6 A. It has the lane width, it just doesn't have

7 the sidewalk width.

8 Q. Okay. But it is going to be five feet?

9 A. Yes.

10 Q. Okay.

11 MR. HEALEY: And again, just for

12 clarification, that's the walkway on the south side

13 of 6000N?

14 THE WITNESS: Yes. South side would be the

15 pedestrian sidewalk, the north side would be the

16 multi-use path, bike path, et cetera.

17 MR. HEALEY: And that's ten feet?

18 THE WITNESS: Ten feet.

19 MS. KUNTZ: Go ahead and look at Exhibit D.

20 BY MS. KUNTZ:

21 Q. Do you recognize that?

22 A. Yes. That is the plan and profile sheet

23 from our roadway plans at the Illinois 50 6000N Road

24 intersection with the railroad.

25 Q. Okay. And Exhibit E, do you recognize

1 that?

2 A. Yes. That is our proposed traffic signal
3 plan which shows the railroad cantilever attached to
4 the signal -- the traffic signal attached to the
5 railroad cantilever. Sorry.

6 Q. And that's only on the west -- the traffic
7 signals to the west of the tracks; is that correct?

8 A. Correct. Eastbound lane only.

9 Q. Okay. And then let's look at Exhibit F.
10 Do you recognize that?

11 A. Yes. That's an additional traffic signal
12 plan that also shows our proposed cable, buried
13 cable on both sides of the tracks. Buried conduit,
14 I should say.

15 Q. And Exhibit F, do you recognize that? Or
16 Exhibit G, I apologize. Exhibit G.

17 A. All right. Yes. Exhibit G would be our
18 lighting plan, which also shows the steel casing or
19 the conduit that we will be installing at the
20 tracks.

21 Q. What work is going to be performed by the
22 railroad?

23 A. Exhibit B, the work would be installing two
24 160-foot grade crossings, the installation of
25 cantilevers on the west side of the tracks --

1 southwest side of the tracks, and cantilevers on the
2 northeast side of the tracks, and also installation
3 of flashing light signals and gates on the southwest
4 side of the tracks and on the northeast side of the
5 tracks.

6 Q. And who will be performing the work for the
7 interconnection, interconnecting the road signals?

8 A. That will be -- the Department of
9 Transportation's electrical contractor will work
10 with the railroad to get the interconnection
11 performed and up and running.

12 Q. Okay. What work is going to be done by a
13 contractor?

14 A. The roadway reconstruction work, the
15 traffic signal installations, and mounting the
16 traffic signals on the railroad cantilever on the
17 southwest quadrant.

18 Q. Who is going to be constructing the
19 multi-use and sidewalk?

20 A. The Department of Transportation's
21 contractor.

22 Q. Has an agreement been entered into with the
23 Department and the Village of Bourbonnais?

24 A. Yes.

25 Q. Does that agreement discuss the whole

1 project, not just this crossing?

2 A. Yes.

3 Q. And what is your understanding of the
4 Village's position regarding this project at the
5 crossing?

6 A. It's my understanding that the Village is
7 in favor of the Department of Transportation's
8 project, and they even have some financial
9 obligations in the project.

10 Q. I believe you touched on this briefly,
11 earlier.

12 What is some of the justification for IDOT
13 doing this project? Are there any safety issues?

14 A. Yeah. Sorry. One of the main reasons is
15 safety. We are constructing the new interchange
16 where one currently doesn't exist at I-57 and 6000N
17 Road.

18 6000N Road has always been a known
19 cut-through for traffic, and in order to keep all
20 the trucks from going through the cities, the
21 municipalities that are around, this road will allow
22 better usage for those vehicles.

23 In the area there's an asphalt plant in the
24 northwest quadrant of 6000N Road and 50. There is a
25 quarry in the northeast quadrant of 6000N Road and

1 50. There is an electrical substation with Com Ed
2 on the south side of 6000N Road and 50. So by
3 making these improvements and moving Illinois 50
4 farther away from the railroad tracks and bringing
5 6000N Road elevation to a flatter profile, it's
6 allowing for safer travel for the vehicles.

7 Q. Who is going to be responsible for paying
8 all costs of the project involving the railroad
9 crossing?

10 A. The Department of Transportation.

11 Q. Now, you mentioned the Village is paying
12 for something, paying for a portion.

13 Does that have to do with the project as a
14 whole and not necessarily this crossing?

15 A. The project as a whole.

16 Q. How is the Department funding this project?

17 A. We are using Capital Bill money, Illinois
18 Jobs Now.

19 Q. If this project doesn't go through,
20 or would the Department ever be at risk for losing
21 this money if the project isn't granted?

22 A. Yes. Illinois Jobs Now money is at the end
23 of its cycle, so we are about to the depletion of
24 the money.

25 Q. Is it important to know exactly or

1 approximate costs for this project?

2 A. Overall cost when construction is complete
3 is estimated around \$66 million.

4 Q. And that is for the large project?

5 A. Correct.

6 Q. Specifically with the crossing, the smaller
7 portion of it, do you have an approximate estimate
8 of the costs?

9 A. The railroad has not provided us an
10 estimate to-date, but my estimate, through past
11 experience, is approximately a million dollars.

12 Q. If your estimate is inaccurate, would it be
13 helpful for the railroad to provide a more current
14 estimate so you can request more funds?

15 A. Yes.

16 Q. And since the Illinois Jobs Now funds are
17 towards the end, is there a deadline that you would
18 like to have that information?

19 A. I would like to have that by the end of
20 February.

21 Q. And that's just to ensure that you would
22 have adequate funding?

23 A. Right.

24 Q. Who will be responsible for the future
25 costs and maintenance of the surfaces and the

1 warning devices?

2 A. The new grade crossing surfaces and the
3 railroad flashing light signals and gates and the
4 railroad cantilever, minus the proposed traffic
5 signals attached to the cantilever would be the
6 responsibility of the Illinois Central Railroad once
7 the project, our roadway project is complete.

8 Q. Who will be responsible for future
9 maintenance of the traffic signals?

10 A. The Village of Bourbonnais.

11 Q. In this situation the traffic signals are
12 going to be mounted on the railroad cantilevers.

13 How is that maintenance issue going to be
14 addressed?

15 A. Through a future agreement between the
16 Illinois Central Railroad and the Village of
17 Bourbonnais, it would include maintenance
18 performance of how to maintain, whether they should
19 be using bucket trucks and/or -- and obtaining
20 railroad flaggers.

21 Q. Are you aware of other railroad crossings
22 where traffic signals are attached to railroad
23 cantilevers?

24 A. Yes.

25 Q. And to your knowledge, that has been proven

1 to be a safe way to proceed?

2 A. Yes.

3 Q. Okay. What is the scheduled letting date?

4 A. We are currently on an April 25th, 2014
5 letting. We originally started the project with a
6 November, 2013 letting, but because we didn't have
7 an agreement with the railroad we had to keep moving
8 the letting forward in time, and April was just
9 about the end of our timeframe to be able to
10 construct the project in a two-year period and
11 utilize the Illinois Jobs Now funding that we have
12 in place.

13 Q. You mentioned the completion date.

14 How much time is going to be needed to
15 complete the project?

16 A. We estimate two years from the start of
17 construction.

18 Q. So by, we can say, February of 2016 the
19 project should be completed?

20 A. No. It would be from the start of our
21 construction, which could be delayed in time due to
22 the letting process and utility relocation delaying
23 slightly the start of construction.

24 Q. What would be the ideal end date for the
25 Commission to issue an order to say the project will

1 be completed by this date?

2 A. The end of -- let's see. The end of 2015.

3 Q. That would give -- I believe 2016 would be

4 two years.

5 A. Yeah. It would be the end of 2016, sorry.

6 Q. So December, 2016 would be the ideal

7 project completion date?

8 A. Yes.

9 Q. Okay. I'm not sure that we specifically

10 talked about it, what kind of warning devices will

11 be installed?

12 A. Currently --

13 Q. Existing or gates and flashers, what will

14 be installed?

15 A. We're proposing cantilevers on -- the

16 railroad to install cantilevers on the west side of

17 the grade crossing for eastbound traffic, and the

18 railroad to install flashing light signals and gates

19 on the west side for eastbound traffic. And on the

20 north side east of the tracks for westbound traffic

21 we propose flashing light signals and gates and

22 railroad cantilever to be installed.

23 Q. What warning devices will there be for the

24 multi-use path?

25 A. There will be no warning devices.

1 Q. And will there be any warning devices for
2 the sidewalk?

3 A. No.

4 MS. KUNTZ: At this time, Your Honor, I'd
5 move to enter Exhibits A through G.

6 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
7 Any objection?

8 MR. HEALEY: No objection, Your Honor.

9 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
10 Okay. IDOT'S Exhibits A through G are admitted.

11 MS. KUNTZ: I don't believe I have anymore
12 questions at this time.

13 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
14 Okay.

15 (Mr. James Morris from the Illinois
16 Department of Transportation has just
17 entered the hearing room via
18 videoconference.)

19 MR. MORRIS: Due to technical difficulties.
20 Okay. Did I miss anything?

21 MS. KUNTZ: Yes, Jim, you did.

22 MR. HEALEY: The whole case. But besides
23 that.

24 MR. MORRIS: Okay. Thank you. It took a
25 while to find somebody who knew how to hook me up.

1
2 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
3 Okay. Sorry about that.
4 MR. MORRIS: Sorry about that.
5 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
6 IDOT just examined her witness here, and we were
7 about to open up the floor for cross-examination of
8 the IDOT witness, and I will proceed, then, next
9 with the railroad. Mr. Healey, if you have
10 anything.
11 MR. HEALEY: Thank you, Your Honor.
12 Actually, if we could, and apologies to Jim, could
13 we take a five-minute break so I can talk to my
14 witness?
15 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
16 Sure. We'll take a five-minute break.
17 (After a short recess, the hearing
18 resumed as follows:)
19 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
20 Are we ready?
21 MR. HEALEY: We are, thank you.
22 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
23 Back on the record. I believe Mr. Healey was going
24 to cross-examine the witness.
25 MR. HEALEY: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MR. HEALEY:

3 Q. Good afternoon. Are you familiar with the
4 environmental assessment for this project?

5 A. That one exists, yes, but I don't know the
6 details of it.

7 Q. Have you ever reviewed the environmental
8 assessment for this project?

9 A. No, I haven't.

10 Q. Okay. Are you aware of any other
11 alternatives that IDOT considered before they
12 decided upon expanding by more than three times the
13 width of the grade crossing at this location?

14 A. Yes. A justification report was performed
15 several years ago, and it was approved by the
16 Federal Highway Administration on April 19th of '06,
17 and then a design report was done based on that very
18 large justification report which looked at traffic
19 patterns in the area, it looked at different methods
20 of construction, it looked at building an overpass
21 across, it looked at moving 50 out, not moving 50,
22 it looked at placing the interchange north of and
23 south of. It's a rather detailed report, which I --
24 Steve Klein at my office supplied to Pat in April of
25 this past year of 2013.

1 Q. If IDOT had elected to relocate the traffic
2 of 50 approximately a mile east to an existing road,
3 the grade crossing we're talking about wouldn't have
4 been -- it may have been required to go to four
5 lanes, but it wouldn't have been required to go to
6 seven, would it?

7 A. That's possible.

8 Q. Okay. Let me ask you a question. If you
9 would turn to Exhibit C.

10 As you know from our prior discussions, the
11 railroad is somewhat staggered by the width of the
12 crossing being proposed here.

13 Are you aware of other grade crossings
14 within your District where five lanes of traffic are
15 crossing a railroad track in one direction?

16 A. Not within our District.

17 Q. Okay. Thank you. A question for you about
18 traffic northbound on Illinois 50 if it's looking to
19 turn left to go west on 6000N.

20 Given the road structure out there, do you
21 think it's fair to expect that some of those drivers
22 are not going to anticipate they're going to have to
23 make -- to cross five lanes of traffic to get into
24 the westbound lane?

25 A. Could you restate that question?

1 Q. Sure. You've got somebody heading
2 northbound on 50 who is looking to turn left or go
3 west on 6000N. Do you think it's fair to say that
4 given the road structure out there they're not going
5 to expect that they have to cross five lanes of
6 traffic in order to get to the westbound lanes?

7 A. Well, they wouldn't be crossing five lanes,
8 they would be crossing four.

9 Q. Okay.

10 A. Which would be the two throughs and the two
11 lefts west of Illinois 50.

12 Q. Okay.

13 A. It's going to be such a large intersection
14 that I, as a driver, would think that there's
15 something major coming through there. There will be
16 traffic signals in all directions with all the
17 signal heads, so they'll be able to see the traffic
18 signal heads and the left arrows and through arrows,
19 so they would know that there's several lanes that
20 they're going to cross.

21 Q. Let's talk about the signal heads, since
22 you raise it.

23 A driver eastbound on 6000N is going to be
24 looking at how many individual railroad signal
25 heads? That is how many individual railroad signal

1 heads will be facing west for eastbound traffic on
2 6000?

3 A. The flashers?

4 Q. Yes.

5 A. Well, there should be five sets of
6 flashers, one for each lane.

7 Q. Okay. But there's actually going to be far
8 more than that, right?

9 A. Correct. Each --

10 Q. There's going to be mass mounted ones on
11 your diagram, there's going to be the back signals
12 for the roads in the other direction?

13 A. Right.

14 Q. I mean my count at it here, and I could be
15 wrong, but we can -- probably Exhibit -- what was
16 this, F?

17 A. B?

18 Q. Maybe B. Yeah, you're right. B is good.
19 I'm counting -- let's start at the southern end.
20 There's two on the mast with the gate, and then
21 there's two on the mast for the cantilever, and then
22 there's two for each of the five lanes of traffic.
23 There's two more for the mast in the median.

24 A. Correct.

25 Q. There's two more for the mast on the gate

1 in the median.

2 A. Correct.

3 Q. And then the other direction, since the

4 signal roundels are bi-directional, that is they

5 face both east and west, there's two more on each of

6 those two masts, and then the cantilever overhead is

7 going to have four more.

8 A. Correct.

9 Q. I put that as 26 separate flashing lights.

10 Is that what you've got it at?

11 A. That's probably right, yes.

12 Q. That's going to be rather startling, isn't

13 it?

14 A. Uh-huh.

15 Q. Okay. In the midst of these 26 separate

16 flashing lights IDOT's proposing to drop down six

17 highway traffic control devices; is that correct?

18 Four up on the cantilever for the westbound, and

19 then another two separately masted in front of the

20 cantilever mast; is that right?

21 A. Yes.

22 Q. So if I understand correctly, an eastbound

23 driver is going to have 26 flashing red lights and

24 six separate highway lights.

25 A. Yes.

1 Q. And some of those highway lights, four of
2 them in particular, are going to be up on the
3 cantilevers.

4 A. Yes.

5 Q. Okay. That's the plan.

6 Are you familiar at all with the Federal
7 Highway Administration's Railroad Highway Grade
8 Crossing Handbook?

9 A. Yes.

10 Q. Okay. And actually, I made a copy of a
11 part of it here. I'm going to ask you about
12 something in it which I didn't mark. I'm going to
13 hand you a copy of what's labeled as Section 4,
14 Identification of Alternatives, from the August,
15 2007 Federal Highway Administration Railroad Grade
16 Safety -- Railroad Grade Crossing Safety Handbook.

17 I want to direct your attention to the part
18 here that's labeled Cantilevered Flashing Light
19 Signals. And one of the things that it says here:
20 Cantilever flashing lights may be appropriate when
21 any of the following conditions exist. And then on
22 the next page: Distracting backgrounds such as
23 excessive number of neon signs.

24 Now, you and I are in agreement this is
25 pretty much out in corn and soybean land. There's

1 no excessive neon lights, right? Would you agree
2 with that?

3 A. Yes.

4 Q. Okay. And then it says: Conversely,
5 cantilevered flashing lights should not distract
6 from nearby highway traffic signage.

7 A. Signals.

8 Q. I'm sorry, I can't read upside down that
9 well. You're correct. Signals. Okay.

10 Given the startling number of red flashing
11 lights for the railroad crossing in addition to the
12 six separate signals, is it your opinion that there
13 is no possibility the drivers will be distracted
14 from the highway signs?

15 A. By installing the traffic signal heads on
16 the railroad cantilevers, it's actually having less
17 visual pollution with a few less masts out there or
18 cantilevers across with the traffic signal heads on
19 them.

20 Q. We still have the same number of lights,
21 though, right, highway control lights?

22 A. Yes. It's just one spot to look at.

23 Q. You mentioned you were familiar with other
24 locations where there are highway traffic control
25 devices mounted onto the railroad warning devices.

1 A. Uh-huh.

2 Q. Can you tell us where those are?

3 A. I have to look.

4 Q. Okay.

5 A. This situation, five lanes in one

6 direction, two in another, exists currently on the

7 Metra's Illinois 22, Illinois 43, with the traffic

8 signals attached to the railroad cantilevers, though

9 it is a railroad cantilever bridge or railroad

10 bridge, as we call it, the exact situation.

11 But I have found just with a quick look,

12 six locations. One of them is on the Illinois

13 Central in Champaign with traffic signals mounted on

14 the railroad cantilevers. We have one in our

15 District, District 3, which is in Watseka on the

16 PP&W.

17 And this design to include the traffic

18 signal heads on the cantilever, the two cantilevers

19 which are on the west side of the railroad tracks

20 and the south side of 6000N Road only was done as

21 the recommendation from the Commerce Commission.

22 Q. And that would be staff member Dan Powers,

23 who is here as well today.

24 A. Correct.

25 Q. Okay. How is Bourbonnais going to be

1 maintaining those highway signals, do you know?

2 A. The traffic signals?

3 Q. Yeah. The highway traffic signals.

4 A. Okay. The Village of Bourbonnais will

5 be -- should be entering into some sort of an

6 agreement with the railroad. I'm not sure what you

7 call those agreements, but there's probably a name

8 for some sort of maintenance agreement where they,

9 when they come out to do any sort of maintenance,

10 they'll have to contact the railroad, obtain a

11 flagger, pay for the flagger, and they should not be

12 allowed to walk on the cantilevers, on the walkway

13 that the cantilevers have, they would have to use a

14 bucket truck, do a partial lane closure and

15 coordinate it all with the railroad.

16 Q. And as far as you know, that agreement has

17 not yet been entered into, correct?

18 A. Correct.

19 Q. Do you know if Bourbonnais has proposed

20 such an agreement to the railroad?

21 A. No.

22 Q. In your testimony you had mentioned that

23 the railroad would be maintaining the new and much

24 wider or longer, depending how you look at it,

25 crossing surface, correct?

1 A. Correct.

2 Q. Was it also your testimony that the
3 railroad was going to be bearing the cost of doing
4 that?

5 A. Of future maintenance.

6 Q. Of future maintenance, right. Not the
7 installation --

8 A. Correct.

9 Q. -- but the future maintenance.

10 The number of lanes of traffic out there,
11 were those designed to benefit the railroad, or is
12 that benefiting the highway users, relative to the
13 five eastbound and two westbound lanes?

14 A. That would benefit the highway users.

15 Q. Okay. And do you have any estimates of
16 what percentage -- I know you told us that it was
17 eight percent truck.

18 A. 18.

19 Q. No, 18 percent truck today.

20 Do you have any estimate of what that
21 number will be in the future? I'm looking for a
22 percentage, again, of truck traffic.

23 A. I do not have that.

24 Q. Okay. Do you have a recollection of
25 whether that percentage would go up or down?

1 A. I do not know that.

2 Q. Okay. It's anticipated, though, that the
3 overall amount of traffic is going to increase here.

4 A. Correct.

5 Q. And with an increase in the amount of
6 traffic it's fair to expect, even if the truck
7 percentage stays the same, that the crossing surface
8 is going to be bearing significantly more traffic
9 and therefore need to be maintained more often than
10 it does now.

11 A. That is possible, yes.

12 Q. Okay. Let me ask you about the sidewalk
13 and pathway.

14 You're familiar with what's generally
15 called the Complete Streets --

16 A. Yes.

17 Q. -- Law? If I understand, and that's an
18 assumption, if I understand the law, the sidewalk
19 and pathway were not mandated by Illinois's existing
20 Complete Street Statute; is that correct?

21 A. Right.

22 Q. Okay. And in fact, the sidewalk and
23 pathway are being installed at the request of
24 Bourbonnais.

25 A. Correct.

1 Q. And again, the sidewalk and pathway are not
2 being installed for the benefit of the railroad,
3 correct?

4 A. Correct.

5 Q. And yet the proposal again is that we're
6 going to pay the maintenance costs to keep those
7 surfaces there.

8 A. Yes.

9 Q. Isn't it true that there are currently no
10 on-road bicycle lanes or off-road bicycle lanes
11 located within the study area for this project?

12 A. I'm not familiar with that.

13 Q. Okay. I'm going to hand you a document.
14 This is the environmental assessment that I found
15 for the project. And if I can direct your attention
16 to the two highlighted passages here.

17 A. Okay.

18 Q. And can you read the two highlighted
19 passages?

20 A. It says: There are no on-road bicycle
21 lanes or off-road bicycle trails located within the
22 study area.

23 Q. Okay.

24 A. And concerning pedestrians, it says: There
25 are currently no pedestrian facilities in the

1 project area.

2 Q. Okay. Do you know if any studies were
3 undertaken to determine if there's currently any
4 pedestrian or bicycle traffic on 6000N?

5 A. I'm unaware of that.

6 Q. IDOT's agreement with Bourbonnais requires
7 that Bourbonnais enter an agreement with the
8 Illinois Central to cover the maintenance of the
9 pathway and the sidewalk and the interconnect cable
10 and the highway signals on the cantilever and safety
11 signage for pedestrians and bicyclists; isn't that
12 correct?

13 A. Yes. That's what's written in the
14 agreement.

15 Q. Okay. One of the items that didn't come
16 up, at least I don't recall it coming up in your
17 testimony, was a required change in the elevations
18 of the rail.

19 Are you familiar with any required changes
20 in the elevation of the rail?

21 A. The proposed center line grade at each of
22 the rails, minimal .03 feet is the elevational
23 difference.

24 Q. Okay. But that's a change that's going to
25 be required of the railroad as a result of the

1 project, correct?

2 A. Yes.

3 Q. Has IDOT done any engineering studies to
4 determine what effect that will have on rail
5 operations?

6 A. No. That's -- when we send an agreement
7 package to the railroad where we show what the new
8 elevations are, the railroad is responsible to go up
9 and down the tracks, see, in order to submit their
10 estimates back to us for the amount of work that's
11 required. They need to go up and down the tracks to
12 determine what their elevations are to see if there
13 is an elevational issue. And we have not received
14 anything from the railroad.

15 MR. HEALEY: Okay. If you can just give me
16 a minute, I might be done here.

17 (Short pause.)

18 THE WITNESS: I actually had those
19 elevations wrong, I apologize.

20 MR. HEALEY: Okay.

21 THE WITNESS: On the main track I have the
22 raise -- main track would be the west track. The
23 raise is .01 feet. The east track or the siding
24 track, the raise is .06.

25 No. I'm sorry, I'm really reading this

1 wrong today.

2 MR. HEALEY: Okay. Getting it right is the
3 most important thing.

4 THE WITNESS: It looks like the east track
5 and west track are off a little bit. .15 -- correct
6 numbers. The west track raise, .15, and the east
7 track it looks like about .25. East track is
8 slightly lower than the west track, and one rail is
9 slightly lower than the other.

10 And this is bringing both tracks up to the
11 same elevation with the flat surface. So some
12 runoff elevation for the railroad's track north and
13 south is expected.

14 BY MR. HEALEY:

15 Q. Is IDOT going to accept any liability if
16 Bourbonnais moves some of the highway signal heads
17 as a result of their maintenance of the highway
18 traffic control devices?

19 A. No. Those traffic signal heads and all the
20 traffic signals west of 50 will be owned and
21 maintained by the Village.

22 Q. Right. The Village will, the Village will
23 be maintaining the ones up on the cantilever.

24 A. Correct.

25 Q. But they'll be in very close proximity to

1 the signals indicating a train is coming, correct?

2 A. Oh. You're saying the railroad's --

3 Q. That's correct.

4 A. No, I'm sorry, that is something that would

5 be spelled out, I believe, in whatever the agreement

6 process is between the railroad and the Village.

7 Which the Department would have no part of.

8 Q. But the Department is building this

9 project.

10 A. Right.

11 Q. And this proposing is on a very short lease

12 because of the funding to get it done, and is

13 proposing that our Administrative Law Judge propose

14 an order for the Commission to require the

15 installation of all this, in fact, in the face of an

16 absence of any agreement between the railroad and

17 the Village for the interconnect and/or bungalow for

18 the cabling for the interconnect, for the cabling

19 for the highway devices, for the sidewalk, for the

20 maintenance of the signals. And you are asking the

21 Commerce Commission to enter an order requiring all

22 this, and then what happens if the railroad and the

23 Village don't agree on all those outstanding issues?

24 A. I'm not sure.

25 Q. Okay. Bourbonnais is required again to

1 enter such agreement by its agreement with IDOT?

2 A. Correct.

3 Q. They agreed to be entering such an
4 agreement or agreements, if it turns out to be, with
5 the railroad.

6 A. Correct.

7 Q. But to-date that hasn't been done?

8 A. Right. And timeframe, we've been
9 communicating with the railroad on this project
10 since 2008, and we've been communicating with
11 Bourbonnais in the project for that long or longer;
12 I don't have all the records. So we were under the
13 hopes that from all the communication that had
14 occurred, several pages worth, we could have come to
15 an agreement prior to getting this close to a
16 project making its letting or the potential of
17 losing funding.

18 MR. HEALEY: Okay. I think I'm done here.
19 Let me just take a last check.

20 (Short pause.)

21 MR. HEALEY: We are done. We thank the
22 witness.

23 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
24 Mr. Dunn, do you have any questions for the witness?

25 MR. DUNN: I have no questions for this

1 witness, Your Honor.

2 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

3 Okay. Mr. Powers, do you have questions for the
4 witness?

5 MR. POWERS: Just a few, Your Honor.

6

7

8 EXAMINATION

9 BY MR. POWERS:

10 Q. You had mentioned earlier briefly about the
11 purpose and need of the overall project. And I
12 think you had stated that there's currently a lot of
13 truck cut-through traffic.

14 Were there any traffic studies done to
15 warrant the number of lanes that are being proposed
16 out here?

17 A. There was a traffic study done, and I do
18 not have the date of the traffic study. That would
19 have been through our traffic department.

20 Q. As far as this type of capacity
21 improvement, you're going from a two-lane cross
22 section to a seven-lane cross section.

23 Would that be an immediate type of thing,
24 or would it be a future type of increase in traffic
25 that would be the need to justify something this

1 big?

2 A. I'm not sure.

3 Q. Okay. So if it wasn't an immediate need,
4 did the Department at least investigate building the
5 interchange and keeping this at a relatively similar
6 cross section for the time being and then coming
7 back when it was -- you know, actual traffic volumes
8 necessitated this type of improvement?

9 A. I don't know. That would all been with our
10 Phase 1 report.

11 Q. Okay. On Exhibit F --
12 (There was a discussion held
13 off the record.)

14 BY MR. HEALEY:

15 Q. Getting back to Exhibit F, are there
16 provisions at the traffic intersection of
17 Illinois 50 and 6000N for pedestrians to cross
18 certain legs of that intersection?

19 MR. HEALEY: You mean today?

20 MR. POWERS: No. Under this exhibit.

21 THE WITNESS: Provisions consisting of --

22 BY MR. HEALEY:

23 Q. As far as traffic signal heads and
24 crosswalks, separate pedestrian traffic signal
25 heads?

1 A. Yes.

2 Q. Okay. So there's provisions, there's

3 active pedestrian signal heads at the traffic

4 intersection itself, and who made the decision or

5 how was the decision made not to provide active

6 devices at the railroad crossing, as far as

7 pedestrians are concerned?

8 In other words, you've got --

9 (Short pause.)

10 THE WITNESS: I'm conferring with our

11 project engineer, because I'm not familiar with the

12 full design on this. So could I have a minute with

13 him?

14 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

15 Do you want to take a five-minute break?

16 MS. KUNTZ: Yes, please.

17 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

18 We'll take a five-minute break.

19 (After a short recess, the hearing

20 resumed as follows:)

21 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

22 Ready? Back on the record.

23 THE WITNESS: I was confused with what you

24 were asking.

25 MR. HEALEY: Okay.

1 THE WITNESS: So to cross 50, yes, there
2 are push button signals or some signalization for a
3 pedestrian to signal into the traffic streets that
4 they're going to cross.

5 At the grade crossing itself, going back
6 into time, several years ago and several railroad
7 people ago, we had proposed putting gates or
8 pedestrian gates at the grade crossing. And at a
9 previous meeting that railroad person had said that
10 the railroad doesn't maintain them and doesn't like
11 them, and so they were removed from the design
12 several years ago.

13 MR. HEALEY: Okay.

14 THE WITNESS: So since then they had been
15 sent without the signaling -- pedestrian signaling
16 gates to the railroad with no response back saying
17 they wanted them, didn't want them, so currently the
18 design is without.

19 BY MR. HEALEY:

20 Q. Okay. If Commission staff recommended that
21 they be installed, who would be responsible for the
22 maintenance of them, or the cost of the maintenance?

23 A. The Village.

24 Q. Okay. I just want to ask you about the
25 previous discussion of the number of railroad

1 flashers and the number of traffic signals on the
2 cantilevers on the west side of the crossing.

3 Can you explain a little bit about the
4 operation? If there is not a train active at the
5 crossing, what will be the condition of the railroad
6 flashers?

7 A. If there's no train at the crossing, the
8 railroad flashers will not be in use, they will be
9 black.

10 Q. Okay. And the same condition, what would
11 be the condition of the traffic signals?

12 A. The traffic signals would be going through
13 the normal cycle of red, yellow, green.

14 Q. Okay. And if the crossing is activated,
15 then what happens to the traffic signals on that
16 side and the flashers that were previously
17 mentioned?

18 A. The railroad flashers would flash, the
19 traffic signals west of the crossing would turn from
20 green to yellow and then yellow to red on the west
21 side of the crossing.

22 The traffic signals east of the crossing
23 would remain green to clear all the traffic through
24 so that there would be no backup of vehicles onto
25 the tracks prior to the train coming.

1 MR. POWERS: Okay. I have no further
2 questions, Your Honor.

3 EXAMINATION BY

4 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

5 Q. Okay. And I have a question, I'm not sure
6 if Mr. Powers asked it.

7 Oh, actually, I think we did cover it. It
8 was a sidewalk warning on the -- at the crossing,
9 and you said there -- what's the proposal?

10 If there's not going to be a gate that's
11 currently proposed, is there going to be a mark on
12 the pavement or something? What type of warning
13 device or signalization?

14 A. There will be no signalization.

15 Q. Is there something to warn pedestrians that
16 a train may be coming?

17 A. The bells and whistles that are going, that
18 are activated by the train.

19 Q. So they have to rely on the vehicle
20 signals, the signals for the vehicles?

21 A. Right.

22 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

23 Okay. I think that's it.

24 Did you have anything further, Ms. Kuntz?

25 MS. KUNTZ: Yes, just a couple follow-up

1 questions.

2 REDIRECT EXAMINATION

3 BY MS. KUNTZ:

4 Q. Mr. Healey directed your attention to
5 Exhibit C and asked a question specifically if
6 you're aware of other crossings in your District
7 that involve the five lanes, and your answer was, I
8 believe, no. Five lanes with the railroad
9 configuration, correct? And the key was in your
10 District.

11 Are you aware of that anywhere in Illinois?

12 A. Yes.

13 Q. And has there been any safety concerns or
14 issues from that type of configuration?

15 A. No.

16 Q. I believe Mr. Powers mentioned whether or
17 not the Department considered, I'll say, doing it in
18 two stages, doing the first stage the interchange,
19 and then the second stage is that crossing.

20 Would there be any concerns with funding if
21 the Department chose to break up the project?

22 A. Yes. We would not be able to use the
23 Illinois Jobs Now capital funding, because it would
24 be past the expiration of getting the money. It
25 would also cost the Department of Transportation

1 additional money to redesign going from one
2 improvement to the next improvement. You can't just
3 stop at several lanes, you've got to design down to
4 the current two lanes.

5 MS. KUNTZ: Okay. Thank you.

6 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
7 Actually, I have another question. I'm just trying
8 to make sure I fully understand.

9 FURTHER EXAMINATION BY

10 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

11 Q. So is the justification for all the
12 additional lanes based primarily on the addition of
13 the interchange with I-57, or is there some other
14 development in the area that's going to be -- that
15 you're planning on?

16 A. It's based on the interchange coming in,
17 it's also based on providing a safe crossing,
18 railroad crossing at Illinois 50 and 6000N.

19 Ever since the Bourbonnais crash in 1999,
20 Bourbonnais has been trying to make these grade
21 crossings safer.

22 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

23 Okay. All right. Any other questions?

24 MR. HEALEY: I have a few, if I might.

25 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

1 Okay.

2 RECROSS EXAMINATION

3 BY MR. HEALEY:

4 Q. You mentioned other grade crossings with
5 five lanes of traffic out of your District.

6 Where are those located?

7 A. Metra Illinois 22 and Bannockburn.

8 B-a-n-n-o-c-k-b-u-r-n.

9 Q. Is that it?

10 A. That's the only one I know of.

11 Q. What did you do to investigate safety
12 concerns at that crossing?

13 A. I spoke to District 1, who performed the
14 construction of it.

15 Q. They performed the construction of it, but
16 what did you ask them -- well, who did you talk to,
17 first of all, at District 1?

18 A. Andy Robatti, the project support engineer.

19 Q. Okay. And what did you ask him about
20 safety at that crossing?

21 A. We discussed the traffic signals, the
22 cantilever design, the installation of the traffic
23 signal heads on the cantilever.

24 Q. Okay. Did you ask him about an accident
25 history at that crossing?

1 A. No, I did not.

2 Q. You mentioned the design of the crossing,
3 including the two left lanes being done for safety.

4 How does two left turn lanes increase
5 safety over one left turn lane? Or is it more a
6 traffic flow issue?

7 A. It's traffic flow.

8 Q. Okay. And the same with the two lanes
9 going straight for eastbound -- westbound --
10 eastbound traffic on 6000N that's going to proceed
11 through 50. Currently there's one lane of traffic,
12 you're anticipating two lanes for traffic proceeding
13 straight through and not turning, correct?

14 A. Correct.

15 Q. 6000N extends another mile, roughly?

16 A. Approximately.

17 Q. Before it ends in a T intersection?

18 A. Uh-huh. Illinois 50 will be greatly
19 increased; traffic lanes, besides being moved east,
20 that will have eight lanes northbound, which
21 includes turn lanes.

22 Q. Eight lanes northbound?

23 A. I'm sorry.

24 Q. Okay.

25 A. Eight lanes south of the intersection.

1 Q. Okay. Thank you.

2 A. Sorry about that.

3 MR. HEALEY: Thank you again for your time.

4 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

5 Is that it?

6 MS. KUNTZ: Thank you.

7 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

8 Okay. Mr. Healey, did you want to present a

9 witness?

10 MR. HEALEY: I did.

11 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

12 Okay. Go ahead.

13 MR. HEALEY: Does anybody need a break? We

14 can get through Mr. Jones relatively quickly, I

15 think.

16 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

17 All right. We'll just go ahead.

18 MR. HEALEY: Thank you.

19

20

21

22 PATRICK JONES,

23 called as a witness herein, having been first duly

24 sworn, was examined upon oral interrogatories and

25 testified as follows:

1 DIRECT EXAMINATION

2 BY MR. HEALEY:

3 Q. Please state your name.

4 A. Patrick Jones.

5 Q. By whom are you employed?

6 A. Illinois Central Railroad.

7 Q. What's your job title?

8 A. Manager of Public Works.

9 Q. Can you briefly describe your job duties as
10 manager of Public Works?

11 A. I help coordinate public projects
12 throughout the entire State of Illinois, including
13 crossing signal, bridge, sidewalk, various other
14 things.

15 Q. How long have you held that job?

16 A. Three years.

17 Q. What specifically is your territory for
18 Illinois Central?

19 A. I handle all of the Illinois Central in
20 Illinois, in the State of Illinois.

21 Q. And that would be from Chicago down --

22 A. Chicago, including the suburbs. I also
23 handle a piece of our track that goes out towards
24 Rockford, about half way between Chicago and
25 Rockford. I switch with another gentleman.

1 Q. Okay. And how about a track heading north?

2 A. I handle our Waukesha sub up to the State

3 Line of Wisconsin. The Illinois State Line.

4 Q. Prior to this job, what job did you hold

5 with Illinois Central?

6 A. I was a track supervisor.

7 Q. What's a track supervisor do?

8 A. I had a 100 and some mile territory, and I

9 took care of all maintenance inspection, capital

10 work. I was in Chicago for about two years, and I

11 was in Southern Illinois, in Decatur, officed out of

12 Decatur for five years.

13 Q. Thank you. Have you physically been to the

14 6000N grade crossing we're talking about today?

15 A. I have.

16 Q. Have you been there more than once?

17 A. Yes, I have.

18 Q. How would you describe the area surrounding

19 that grade crossing?

20 A. 6000N is a totally rural area. In the

21 northwest quadrant there's an asphalt plant, in the

22 northeast quadrant there's a rock quarry. In both

23 quadrants to the south it's generally farm fields,

24 and I think there's maybe just a couple houses local

25 in the area.

1 Q. Okay.

2 A. Private homes.

3 Q. You were here earlier when Ms. Reed

4 testified to the number of freights and intermodals

5 and Amtrak trains, yes?

6 A. Yes.

7 Q. I wrote down 14 freights, two intermodals

8 and six Amtrak. I think that was the testimony.

9 A. Yeah. I show it as our last most recent

10 count was 22 freights and six passengers.

11 Q. Okay. And your freight count would include

12 the intermodals?

13 A. Yes.

14 Q. Okay. What's the maximum authorized track

15 speed out there?

16 A. The maximum authorized speed on the main

17 track, which is the west track, would be 79 miles an

18 hour for a freight train -- or for a passenger

19 train, and 60 miles an hour for a freight.

20 And the east track, the speed on that at

21 the siding is 30 miles an hour for a passenger or a

22 freight train.

23 Q. Thank you. At my request did you have an

24 opportunity to review the accident history of the

25 6000N grade crossing?

1 A. I did.

2 Q. Did you find any accidents involving trains
3 in the last 40 years at that crossing?

4 A. None that I could find.

5 Q. Okay. You've been with us today for the
6 hearing, you've seen the exhibits that IDOT has
7 admitted, A through G, yes?

8 A. Yes.

9 Q. And you're generally familiar with those
10 plans?

11 A. I am.

12 Q. Okay. Does the railroad have any concerns
13 about what IDOT is proposing here?

14 A. We have concerns on a few different
15 levels.

16 One concern, probably our biggest concern,
17 one of our biggest concerns is that there's a lot of
18 agreements, a lot of things that -- a lot of pieces
19 to this puzzle that just haven't been handled yet
20 that have to be handled. We certainly can't proceed
21 with this project, we have concerns if, you know, it
22 starts getting built we'll have people out there
23 trying to maintain the signals on our cantilever,
24 and, you know, right now there's no way of
25 explaining to the City what kind of training their

1 people need to have, what the rules are, so those
2 things need to be handled.

3 One of the other big concerns that we have
4 is just the number of lanes. Going from -- we're
5 going from -- our existing crossing is 32-foot wide
6 of crossing surface, we're going to 160 foot. So
7 it's like five times as big. I mean it's going to
8 put a significant cost burden on the railroad.

9 And if I remember right, reading the
10 traffic studies is -- a lot of this traffic isn't
11 coming for 30 years. They're building this for
12 traffic 30 years down the road. So we're going
13 to -- I'm going to have to maintain that crossing,
14 probably I'm going to have to change it out twice.
15 In today's cost that's approximately \$1200 a foot,
16 or we'll just say \$1,000 a foot. So that's
17 \$320,000. I'm going to have to spend that twice in
18 today's money before that traffic gets reached per
19 the study that I read. That's a big concern.

20 And then we have concerns about the need
21 for the path, the pedestrian pathway to the north
22 and to the sidewalk to the south. There is nothing
23 in the area that would ever make anybody think that
24 there's going to be a biker coming through there. I
25 mean there's just -- if you go out and you look,

1 it's literally a farm field.

2 So we feel like we're getting burdened with
3 these costs and maintaining this stuff, you know.

4 It's -- we're not in an urban area like Chicago,
5 we're people -- I mean there's lots of traffic.

6 It's literally out in the middle of nowhere. I mean
7 it's north of Bourbonnais a couple miles, and it's
8 south of Manteno. It's all farm fields around it,
9 plus the two industrial places.

10 I've never seen anybody ride a bike there,
11 I've never seen anybody walk across the tracks
12 there. So that's just kind of -- we feel like it's
13 overbuilt. We feel like if it needs to be built in,
14 you know, 20 years down the road, well, let's -- you
15 know, and there's an actual need, then okay, then
16 we'd probably be okay with it. But it seems like
17 it's too much for now. I mean we -- in the City, in
18 my territory, I'm not aware of any other places
19 where we have five lanes of traffic in one direction
20 at a railroad grade crossing.

21 Q. And your territory includes Chicago and the
22 suburbs?

23 A. It includes Chicago, so it just seems like
24 it's a lot for me for such a rural area. I felt
25 like they could have done less.

1 Q. Thank you. You were here when Ms. Reed
2 earlier testified that there's a location in
3 Champaign that has highway signals on a railroad
4 signal mast or cantilever.

5 Are you familiar with that location?

6 A. I'm not.

7 Q. Okay.

8 A. It could be. There's a lot of crossings in
9 Champaign.

10 Q. In your testimony, which includes virtually
11 all of our track in -- or most of our track in
12 Illinois, are you aware of any locations, any other
13 locations where highway signals are on a railroad
14 signal bridge or cantilever?

15 A. I'm only aware of one, and that's at
16 Rollins Road where we're currently grade separating
17 the crossing, and it will be eliminated.

18 Q. So then once that grade separation project
19 is done, to your knowledge there will be no
20 locations --

21 A. That's correct.

22 Q. -- on the CN that have highway signals
23 mounted up.

24 Is it safe to say it's somewhat unusual to
25 have highway signals mounted on the same mast as the

1 railroad grade crossing warning devices?

2 A. Yes. This is the first project I've --
3 other than Ground Zero, that I've ever seen it,
4 so...

5 Q. Do you have anything else you need to be
6 asked?

7 A. Not that I'm aware of.

8 MR. HEALEY: Okay. I think we're done.

9 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
10 Ms. Kuntz, do you have any questions of the witness?

11 MS. KUNTZ: Yes, Your Honor, thank you.

12

13

14 CROSS-EXAMINATION

15 BY MS. KUNTZ:

16 Q. Thank you for listing your concerns with
17 this project.

18 The first concern mentioned is that there's
19 a lot of agreements that have not been handled; is
20 that correct?

21 A. Yes.

22 Q. What has the railroad done to handle these
23 agreements? What meeting has the railroad been
24 proactive in trying to get these agreements pushed
25 along?

1 A. I've attended two meetings for this
2 project. One was in 2013 in Ottawa, Tom and I
3 attended, and then we also attended one more
4 recently. I forget what month it was in, in
5 Bourbonnais. So two meetings that I know of, I can
6 think of. We had so many disagreements in figuring
7 stuff out, that I didn't think we were ever at a
8 place to really work on the agreements.

9 Furthermore, this is the State's project.
10 It's not my job to work through all the agreements.
11 I mean in my opinion the State needs to be working
12 through all these agreements with us. They should
13 be proposing them. They haven't proposed one thing
14 to us.

15 Q. You're saying that the Department has not
16 sent the railroad an agreement on this project?

17 A. They've sent a construction and maintenance
18 agreement that we had many issues with, and we
19 brought some of them to the attention of them at a
20 meeting. We also have proposed -- have an offer
21 currently out on the table with the City of
22 Bourbonnais that they've never responded to us on.

23 Q. What is that offer?

24 MR. HEALEY: I'm going to object. That was
25 part of settlement discussions, and I think it's

1 inappropriate, first, to get into the contents of
2 it. I'm fine with the fact that the discussion took
3 place, but I don't think it's appropriate to get
4 into settlement discussions.

5 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
6 Sustained.

7 BY MS. KUNTZ:

8 Q. I'm not sure if I heard your testimony
9 correctly.

10 You said you were not aware of any Illinois
11 Central Railroad locations that had traffic signals
12 on the cantilevers, was that correct?

13 A. Yeah. I got 2700 crossings on my
14 territory, so I don't...

15 Q. Are you familiar with the Dunkin Road in
16 Champaign crossing?

17 A. I'm not.

18 Q. Would you be surprised to learn that at
19 that intersection the traffic signals are in fact
20 mounted on a cantilever?

21 A. I would be surprised.

22 Q. I just -- for your reference I'll go ahead
23 and show you -- here's a photograph of that crossing
24 where in fact the traffic signals are on the
25 cantilever. I believe that was referenced in

1 ICC case T03-0033.

2 A. 2003? That's a long time before I've been
3 in this job, so I have not --

4 Q. When did you start in that job?

5 A. Three years ago.

6 Q. Okay.

7 A. 2010, I believe.

8 Q. Just for your information, that there is --
9 one does exist with Illinois Central at that
10 location.

11 You mentioned that you are not aware of any
12 purpose for the multi-use or sidewalks in that area
13 since you've never seen a bicyclist.

14 Are you familiar with IDOT's justification
15 report that was sent to the railroad? Or I'm not
16 sure if it was -- was it sent to the railroad? I'm
17 not sure.

18 A. There's a lot of documents with this one --

19 Q. Okay.

20 A. -- so I reviewed a lot of stuff.

21 Q. Inside that justification report a design
22 report would be another report that was likely sent
23 to the railroad.

24 I want to go ahead and show you, there is a
25 proposed regional multi-use trail that was included

1 in the justification report or design report, just
2 to make you aware that it is proposed that the
3 traffic will increase, pedestrian traffic that is,
4 by the creation of those trails.

5 MR. HEALEY: I'm going to object. This
6 wasn't a part of IDOT's case in chief, and it seems
7 that IDOT's Counsel is now introducing testimony
8 about installation of other pathways, et cetera.

9 If this is an element of the project, it
10 should be presented by an IDOT witness in their
11 case, and not cross-examination of a witness who's
12 saying he's not familiar with the project. There's
13 no basis for it to be in the record, is what I'm
14 saying.

15 MS. KUNTZ: This is just to -- I'm
16 challenging his knowledge. He said he wasn't aware
17 of it. This is documents that -- it does exist
18 outside of his knowledge. So while he may
19 personally not have information, it doesn't mean it
20 doesn't exist.

21 MR. HEALEY: Well, it doesn't exist for
22 purposes of the record, is my point.

23 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
24 What is it that you're showing him again? Oh. This
25 is the proposal.

1 And I'm sorry, what was your question?

2 MS. KUNTZ: It was just if he was aware
3 that that proposal does exist, and it was included
4 in the design report or the justification report.

5 MR. HEALEY: And it's okay for him to say:
6 I'm not familiar with it, that's the question,
7 that's the answer. I'm just pointing out it doesn't
8 become a part of the record on which a decision can
9 be based, when the only witness who's looked at the
10 document says: I don't know what it is. That's
11 all.

12 THE WITNESS: I don't recall seeing this
13 specifically, no.

14 MS. KUNTZ: Okay, thank you. I don't
15 believe I have anything else. Thank you.

16 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
17 Mr. Dunn, do you have any questions?

18 MR. DUNN: Just a couple.

19 EXAMINATION

20 BY MR. DUNN:

21 Q. Now, you have been in your job, you said,
22 for three years now?

23 A. Uh-huh.

24 Q. And during that three years how long have
25 you actually spent at this grade crossing site?

1 A. I don't know if I know how long I've spent
2 there. I've made at least probably four or five
3 trips to it introducing the project to our signal
4 folks, our track supervisors. I think one time I
5 actually seen Amy out there, so I've been there
6 quite a few times.

7 Q. Okay. And you don't live in the area,
8 correct?

9 A. Not real close, no.

10 Q. Okay. And as far as -- the railroad hasn't
11 done some kind of study or any kind of count
12 regarding bikes or pedestrians in that area, to your
13 knowledge?

14 A. It's not my project.

15 MR. DUNN: I'm just asking. Because you
16 previously testified that you've never seen a bike
17 or a pedestrian out there, and I just wanted to test
18 your basis for that statement.

19 I have nothing further.

20 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
21 Mr. Powers?

22 EXAMINATION

23 BY MR. POWERS:

24 Q. Just one question. In your experience on
25 projects of this size, do you have any experience as

1 far as getting agreements, is it usually with
2 multiple agencies, or is it usually just one point
3 agency that's handling that, or what's been your
4 experience with that?

5 A. Typically it's -- a project like this would
6 be with one agency. Well, there's multiple
7 agreements sometimes in large projects, but
8 typically there is -- this one is a little bit
9 different based on one person building it, the other
10 person owning it. Yeah, this is just a little bit
11 different than most.

12 MR. POWERS: Okay. No further questions.

13 EXAMINATION BY

14 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

15 Q. I just have one question, just so that I'm
16 clear on where things stand in terms of the
17 agreement.

18 You said you had -- the railroad had
19 reviewed something and sent it back to the Village,
20 and you're waiting for a response.

21 I mean where do the agreements stand, as
22 far as, you know, between the Village and the
23 railroad?

24 MR. HEALEY: In terms of actually being a
25 document?

1 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

2 Yeah.

3 THE WITNESS: There's no such document
4 currently. No papers have been passed, no documents
5 have been written up that I'm aware of. The only
6 document that I know of is a document that the DOT
7 sent to me. I guess there's two.

8 There's that one, and then there's the
9 agreement that the DOT has with the City that we've
10 seen. But we had issues with signing the agreement
11 with the Department of Transportation saying that we
12 have to -- it says in there that we have to reach
13 agreements with the City, but it seemed like we had
14 one ahead of the other. Like we got to get all the
15 background stuff before we sign the main agreement.
16 And none of that stuff has happened.

17 There's like I think five agreements I
18 wrote down that I think we need. We need an
19 interconnect agreement, a sidewalk and a pathway
20 agreement, we need some sort of agreement that I've
21 never seen for maintenance of the signal heads on
22 our cantilever. That's the one that scares me the
23 most, is some Meade Electric type person is going to
24 put up and put their truck up and they'll have the
25 boom up, and the train is going to whiz by and

1 they're up in the bucket truck and smoke them, or
2 hit them. We have to have licenses for the cables
3 and the conduits for the street lighting. So --
4 BY ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

5 Q. And what role do you play in the agreement
6 process? Do you review it and pass it along to
7 Legal? How does that work?

8 A. We write them. I mean normally Tom and I
9 will draft an agreement. Sometimes the cities will
10 draft an agreement, we'll review them, it just kind
11 of depends. It could come from either direction.
12 You know, they can come either way. Either they can
13 present one and we can normally propose edits,
14 redline edits, or vice versa. So it's -- Tom and I
15 work together, and sometimes we write them.

16 Like I said, we just feel like the
17 Department's got this big project, \$66 million,
18 they're saying: Railroad, go write these
19 agreements. It's your project. You know, you got
20 to get this done. And quite frankly, it's their
21 project. They should be pushing this along, working
22 with the City and the railroad to make this happen.
23 That's the way I feel.

24 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
25 Okay. Do you have any follow-up?

1 MR. HEALEY: I don't. Thank you,
2 Your Honor.

3 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
4 Mr. Dunn, are you going to present a witness?

5 MR. DUNN: Yes. I'll call my Village
6 Administrator, Spathis.

7 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
8 I don't think you got sworn in.

9 (Witness sworn.)

10 GREGG SPATHIS,
11 called as a witness herein, having been first duly
12 sworn, was examined upon oral interrogatories and
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MR. DUNN:

16 Q. Please tell the Judge your name.

17 A. Gregg, G-r-e-g-g, Spathis. S-p-a-t-h-i-s.
18 I'm the Village Administrator for the Village of
19 Bourbonnais.

20 Q. How long have you been the Village
21 Administrator?

22 A. Six years.

23 Q. And are you familiar with this road
24 project?

25 A. Yes.

1 Q. And you're familiar with these
2 circumstances regarding this grade crossing?

3 A. Correct.

4 Q. And does the Village have an opinion
5 regarding the IDOT plans at this time?

6 A. The Village's opinion is that the IDOT plan
7 was presented, we've asked for the money, it's a
8 Federal project, and we got the money to IDOT
9 because they are the conduit for that, and they've
10 come up with the plans and we've agreed with them,
11 so...

12 Q. And is the Village requesting that the
13 Judge order that the project go through as planned?

14 A. Yes.

15 Q. Regarding the agreement with -- the
16 proposed agreement that needs to be done with the
17 railroad, has the Village done anything to create
18 that agreement?

19 A. No.

20 Q. Has the Village heard anything from the
21 railroad regarding the agreement?

22 A. Not directly. Through IDOT we have.

23 MR. DUNN: I have no further questions.

24 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

25 Ms. Kuntz, do you have any questions for

1 Mr. Spathis?

2 MS. KUNTZ: Yes.

3 CROSS-EXAMINATION

4 BY MS. KUNTZ:

5 Q. Would the Village be willing to work with
6 the railroad in either creating or suggesting
7 language for this agreement?

8 A. Yes.

9 MS. KUNTZ: Thank you.

10 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

11 Mr. Healey?

12 MR. HEALEY: I have nothing for the
13 witness. I thank him for his time.

14 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

15 All right. Mr. Powers?

16 EXAMINATION

17 BY MR. POWERS:

18 Q. I just have a quick question. As far as
19 what the Village understands, and I haven't seen the
20 agreement between IDOT and the Village, as far as
21 the proposed pedestrian paths across the crossing,
22 that's going to be the Village's responsibility?

23 A. We have heard that. We have not come to
24 the affordability factor of that yet, and what that
25 will entail. We've only heard briefly from the

1 railroad what they think we should do at a meeting
2 at our office that they explained, and however, they
3 came back with no reasonable proposals on
4 maintenance, so we have done nothing as of this
5 point.

6 Q. As far as the traffic signals at the
7 intersection of Illinois 50 and 6000N, is the
8 Village going to be maintaining the traffic signal
9 in its entirety, or just the traffic signals that
10 are on the west leg of the intersection?

11 A. Our understanding is in its entirety. We
12 do have other Villages involved, however we are all
13 part of that and we're handling the maintenance of
14 those, like we do now.

15 MR. POWERS: Okay. No further questions.

16 EXAMINATION BY

17 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

18 Q. So let me make sure I have this straight.
19 You don't have -- IDOT doesn't have any estimates
20 yet from the railroad, and it sounds like you don't
21 have any estimates or budgeting information from the
22 Village. And I don't know, maybe your witness can
23 answer this.

24 So how -- I mean how does the process work?
25 Does -- IDOT entered an agreement with the Village,

1 and the Village -- and in that agreement you request
2 that they then get -- I'm sorry, come to an
3 agreement with the railroad.

4 Do you provide them with any framework, any
5 templates, anything?

6 MS. REED: No. We recommended that they
7 coordinate with the railroad.

8 On previous conversations with Pat Jones,
9 he had said, and I believe I have some in writing,
10 that the railroad has types of agreements that they
11 use for interconnecting and maintenance, et cetera.

12 The Department of Transportation does not
13 have jurisdiction of the roadway, so we cannot
14 provide the agreement for the railroad and the
15 Village of Bourbonnais.

16 We, the Department of Transportation, were
17 always under the understanding that the railroad
18 would provide necessary documentation to the Village
19 with the language that they needed for maintenance,
20 et cetera, and the types of agreements that they
21 needed for maintenance, signal placement, et cetera,
22 and they would provide that to the Village for the
23 Village to sign.

24 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
25 I see. Okay.

1 MS. REED: And in our agreement, the
2 Department of Transportation's agreement with the
3 railroad, we had written that the -- they may come
4 to an agreement. Not knowing what type of agreement
5 that the railroad and the Village needs to enter
6 into, we wrote in Section 12: By separate document
7 the company, being the Illinois Central Railroad,
8 may enter into an agreement with a third party to
9 cover, among other things, future maintenance cost
10 of sidewalk and multi-use paths, traffic signal
11 heads attached to railroad cantilever, traffic
12 signal interconnect cable, buried ten-inch conduit
13 containing cables for traffic signals and roadway
14 lighting.

15 The Department of Transportation doesn't
16 know what sort of agreement that the railroad needs
17 to enter into with the Village, so we had written
18 that in the agreement saying that it needs to be
19 done, or we felt it needed to be done, but they need
20 to continue on with that process.

21 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
22 Thank you.

23 Mr. Powers, can you give me Staff's opinion
24 or -- words have left me. Staff's position on the
25 proposed project? Does staff have a position?

1 MR. POWERS: Well, as far as the existing
2 conditions, where Route 50 and 6000N, Route 50 being
3 free flow and Route -- or 6000N being controlled by
4 a stop sign trying to enter Route 50, and the fact
5 that semi-trucks are using that route right now, and
6 the location of the stop sign, if a designed
7 vehicle, a semi were stopping at the current stop
8 sign, would probably encroach on the rail right now.

9 This project in whole as far as relocating
10 Route 50 and putting in traffic signals will be a
11 safer condition. So we would support the project on
12 those matters.

13 As far as the extent of the geometry
14 involved, I really can't comment on that because I
15 don't -- you know, whether it's needed or not I have
16 no opinion, because I haven't looked at the traffic
17 study.

18 And then finally, as far as the proposed
19 pedestrian crossings, Staff would recommend that
20 pedestrian gates be installed because of the nature
21 of the 79 mile an hour Amtraks that are going
22 through here if this project were to go forward.

23 So that would be Staff's opinion on this
24 project.

25 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:

1 Okay. Thank you. All right. So is that all the
2 information that you have to present today,
3 Ms. Kuntz?

4 MS. KUNTZ: Yes.

5 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
6 Mr. Healey?

7 MR. HEALEY: I'd like to make a closing, if
8 we could, but in terms of evidence, we're done.

9 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
10 You're done. Okay. Well, I will allow Ms. Kuntz to
11 make a closing, if she'd like to.

12 CLOSING ARGUMENT

13 BY MS. KUNTZ:

14 Your Honor, based upon the information
15 that's been given to the Commerce Commission, this
16 project should be granted, the petition should be
17 granted.

18 We understand the railroad has expressed
19 concerns. The Department's tried to work through
20 those concerns, however, based upon our information
21 involving the traffic signals on the cantilevers, we
22 feel that is a safe decision, installing the signals
23 on the cantilevers.

24 We understand that it is up to the Village
25 and the railroad to come to some sort of agreement.

1 While the Department would like to assist, legally I
2 cannot write an agreement or draft anything for
3 someone who's not the Department. It's unfortunate,
4 because it is our project, as Mr. Healey has
5 expressed, and we do want it to go forward. But at
6 this point we need to have some cooperation between
7 all parties in order to get an agreement as to all
8 terms, and that includes maintenance issues.

9 We feel that there's been sufficient
10 evidence presented that the Commission should grant
11 the petition.

12 Thank you.

13 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
14 Mr. Healey?

15 MR. HEALEY: Thank you, Your Honor.

16 CLOSING ARGUMENT

17 BY MR. HEALEY:

18 I think a careful reading of the record
19 that's been put in today is going to reveal that the
20 Department has failed to carry their burden of
21 proof.

22 625 ILCS 5/18 C-7401, Sub 3 states in part:
23 The Commission shall also have the power after a
24 hearing to require a major alteration of any
25 crossing when in its opinion the public safety

1 requires such alteration.

2 We heard discussions of public safety
3 today, but I don't think upon review of the record
4 you're going to find that the various elements of
5 the project proposed by the Department in fact have
6 any evidentiary basis in the record.

7 You know, there was testimony, for example
8 we questioned, obviously, the number of lanes.
9 We're going from two lanes to seven lanes here.

10 We heard testimony from Ms. Reed about that
11 there's a study that's not of the record, that
12 wasn't put in as an exhibit, and frankly, she said
13 she wasn't sure what it had said. But there was no
14 safety basis for two left turn lanes rather than
15 one.

16 We asked about the two straight lanes. And
17 again, the record is not going to show that there's
18 any basis in safety for requiring eastbound traffic
19 to have two separate lanes, making this rather
20 elaborate and elongated crossing out there in the
21 middle of what's been identified as a relatively
22 rural area.

23 We do have significant concerns with the
24 highway signals and cantilevers. We had much
25 discussion about it today. And the fact that we're

1 individually trying to name one or two crossings
2 that have it would indicate that's a fairly rare
3 occurrence. But again, I don't think you're going
4 to find much in the record to support that there's a
5 safety notion that requires those installations.

6 The sidewalk and the path, Ms. Reed
7 testified for us that they're not required by the
8 Streets, Complete Streets Law. And there was no
9 measurement taken by them to determine is there any
10 basis out there for putting in a sidewalk. In fact,
11 the record is going to show the only reason the
12 sidewalk is going out there is because Bourbonnais
13 requested them. Well, that's not a safety basis,
14 that's a request from them to put it in, but that
15 doesn't carry the burden that's required to be
16 carried by the Department in front of this
17 Commission.

18 Mr. Jones, I think, did a fine job of
19 expressing the railroad's concern about the number
20 of outstanding agreements that we have here.
21 There's been discussions, but there's been no
22 drafts. And the notion that an order is going to be
23 entered and require the installation of something
24 when so many issues are left outstanding, is frankly
25 staggering to us.

1 The bottom line here, Your Honor, is that
2 simply because a party is willing to pay for
3 something doesn't mean it should be approved by the
4 Commission.

5 The Illinois Legislature has established by
6 statute the basis for the Illinois Commerce
7 Commission to approve a major alteration of a
8 crossing like this. We don't think the burden has
9 been carried by the Department today, and it is our
10 hope that you will be entering an order denying the
11 petition.

12 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
13 Mr. Dunn, did you have any remarks?

14

15

16 CLOSING ARGUMENT

17 BY MR. DUNN:

18 I believe when you review the record,
19 Your Honor, and the recommendations of Staff, again
20 you'll see that the burden of proof has been met,
21 and the Village is requesting that you approve the
22 petition.

23 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE:
24 Okay. All right. Well, I think if that's it, all
25 the evidence has been entered into the record, we

1 can mark the record heard and taken.

2 And given that the parties are not in
3 agreement, it would -- I would have to issue a
4 proposed order and go that route and give you the
5 opportunity to file briefs and exceptions. So that
6 would be our next step here, so we'll just have to
7 wait until I get to the PO, the proposed order.

8 So that's it. We're done for today. Thank
9 you.

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11 (Hearing ended at 3:35 p.m.)

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1 STATE OF ILLINOIS)
2) ss:
3 COUNTY OF C O O K)

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 I, Camille Trok, C.S.R., R.P.R., do hereby
certify that I reported in shorthand the hearing
held on January 29, 2014, and that this transcript
is a true and accurate transcription of my shorthand
notes so taken, to the best of my ability, and
contains all of the proceedings given at said
hearing.

Camille Trok
License No. 084.000960